

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3
4 In the matter of)

5)
6 Brad Cornelsen)
7)
8)

MUR 7027

9 **SECOND GENERAL COUNSEL'S REPORT**

10 **I. ACTIONS RECOMMENDED**

11 Take no further action as to Brad Cornelsen and close the file in this matter.

12 **II. BACKGROUND**

13 This matter was initially generated by a joint *sua sponte* submission by MV
14 Transportation, Inc. ("MV") and its former Chief Executive Officer, R. Carter Pate. The
15 submission disclosed that MV had reimbursed Pate for six federal contributions totaling \$43,100
16 made to federal candidates from 2011-2013.¹ An amended submission, filed in response to a
17 request for more detailed information, indicated that Brad Cornelsen, MV's former Chief
18 Financial Officer, consented to paying Pate a bonus to reimburse him for the contributions.
19 Cornelsen, who declined MV's invitation to join in the *sua sponte*, was generated as an
20 additional respondent in the matter.

21 On March 15, 2016, the Commission found reason to believe that MV, Pate, and
22 Cornelsen violated the Act by making and consenting to the use of corporate funds to make
23 contributions in the name of another and approved pre-probable cause conciliation with each.²
24 We negotiated separate conciliation agreements with MV and Pate, and on October 25, 2016, the

¹ See *Sua Sponte* Submission (Aug. 5, 2014).

² See Commission Cert. (Mar. 16, 2016) and Amended Cert. (April 28, 2016).

Commission approved both.³ These agreements, among other things, provided that MV and Pate would pay civil penalties of \$21,000 and \$43,000, respectively.⁴

On November 1, 2016, Cornelsen was convicted on five counts of wire fraud in connection with a scheme to defraud MV of approximately \$1.4 million.⁶ On March 31, 2017, he was sentenced to forty-eight (48) months imprisonment, three years of supervised release, and

³ See Commission Cert. (October 28, 2016).

⁴ MV Conciliation Agreement at 5; Pate Conciliation Agreement at 4.

⁶ See <https://www.justice.gov/usao-sdia/pr/pottawattamie-county-resident-sentenced-prison-scheme-defraud-former-employer>.

ordered to pay more than \$1.4 million in restitution to MV.⁷ Cornelsen is currently imprisoned in Yankton, South Dakota.

After Cornelsen's March 2017 conviction and sentencing, we contacted his criminal counsel to see if Cornelsen would be interested in resuming conciliation. The attorney said that he did not represent Cornelsen in this matter, but he would pass our message on to Cornelsen. Cornelsen has not responded.

The statute of limitations has expired for \$18,100 of the \$43,100 activity at issue and will expire for the remaining \$25,000 as of September 10, 2017.

III. FACTUAL AND LEGAL ANALYSIS

As discussed in detail below, under the circumstances presented here, we believe that it would not be an efficient use of the Commission's resources to continue pursuing Cornelsen for his apparent violations of the Act.

First, information gathered after the Commission's reason to believe findings indicates that Cornelsen played a less significant role in the reimbursement of Pate's contributions than originally thought. Specifically, the information available prior to the Commission's findings indicated that Cornelsen, as Chief Financial Officer of MV, coordinated with Pate to approve a reimbursement of Pate's political contributions without knowledge of MV's Board of Directors, and disguise the reimbursements as bonuses. However, after the reason to believe findings, Cornelsen produced an email showing that he approved one of Pate's contribution reimbursements only after receiving an email from Pate representing that MV's Board approved

⁷ *Id.*

1 the reimbursement.⁸ Further, Pate provided information that MV routinely used a “bonus”
2 accounting code for expenses that were not tax deductible,⁹ suggesting that Cornelsen’s
3 identification of the reimbursement as a bonus in MV’s records was not intended to deceive
4 because it was in accordance with MV’s accounting practices.¹⁰ This information undercuts the
5 conclusion that Cornelsen coordinated with Pate to conceal the reimbursement as a bonus, and
6 suggests that Cornelsen may have merely approved Pate’s request for reimbursement of a
7 political contribution without recognizing that it violated the law. Pate also explained that he
8 tried to have Cornelsen fired before Cornelsen approved reimbursements to Pate, making it
9 unlikely that the two conspired to hide the illegal reimbursements.¹¹ While this new information
10 does not exonerate Cornelsen, it does indicate that Cornelsen was a less significant participant in
11 the activity.

12 Further, we believe continuing efforts to attempt conciliation with Cornelsen would be
13 futile. Cornelsen is currently in prison and was unresponsive to our effort to reach him prior to
14 his incarceration.

⁸ The text of Pate’s email reads: “Thanks for working on the reimbursement . . . The contributions will continue as we ramp up our efforts and will need to be grossed up. Jon [Monson, a Board member] is on board and Alex [Lodde, another board member] has approved.” See November 23, 2011, E-Mail at Attach. 1. See also Cornelsen RTB Resp. at 2 (Apr. 20, 2016) (maintaining reimbursement was based on Pate’s e-mail).

⁹ See Email from Laurence Levy, Esq, to Kimberly Hart, Esq., OGC, Enforcement Division (June 9, 2016).

¹⁰ See Cornelsen RTB Resp. at 2.

¹¹ Pate RTB Resp. at 7 (May 23, 2016).

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7 Finally, the Commission has already vindicated the Act with respect to violations by the
8 two principal participants in this reimbursement scheme — Pate and MV — by entering into
9 conciliation agreements and collecting civil penalties totaling \$64,000.

10 Under the specific circumstances discussed above, we recommend that the Commission
11 take no further action as to Cornelsen and close the file in this matter.

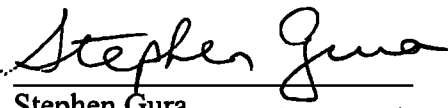
12 **IV. RECOMMENDATIONS**

- 13 1. Take no further action as to Brad Cornelsen;
14 2. Approve the appropriate letters; and
15 3. Close the file.

16 Lisa J. Stevenson
17 Acting General Counsel

18 Kathleen M. Guith
19 Associate General Counsel for Enforcement

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23 Date: 8.9.17

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25 Stephen Gura
26 Deputy Associate General Counsel
for Enforcement

Mark Shonkwiler
Assistant General Counsel

Kimberly D. Hart
Attorney

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November 23, 2011 Email

Exhibit B - November 23, 2011 Carter Pate email

----- Forwarded Message -----

From: Brad Cornelsen <bcornelsen@mvtransit.com>

To:

Sent: Wednesday, November 23, 2011 8:01 AM

Subject: FW: Update

Brad R. Cornelsen, CPA | Chief Financial Officer

MV Transportation, Inc.

4620 Westamerica Dr | Fairfield, CA 94534

phone (712) 764-3771 | cell () | facsimile (707) 646-7943

-----Original Message-----

From: Carter Pate [mailto:]

Sent: Wednesday, November 23, 2011 7:56 AM

To: Brad Cornelsen

Subject: Re: Update

Thanks for working on the reimbursement... The contributions will continue as we ramp up our efforts and will need to be grossed up. Jon is on board and Alex has approved.

Carter

R Carter Pate, CPA, MBA

Sent from my iPad